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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-----------------------|---------------------|------------------|
| 10/045,250 | 11/07/2001 | William Arthur Taylor | | 2319 |

7590 01/31/2006

WILLIAM ARTHUR TAYLOR
1326 ASPEN DRIVE
EVERGREEN, CO 80439

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| EXAMINER |
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LAYNO, BENJAMIN

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| ART UNIT | PAPER NUMBER |
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3711

DATE MAILED: 01/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/045,250

Applicant(s)

TAYLOR, WILLIAM ARTHUR

Examiner

Benjamin H. Layno

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's arguments, see response filed 11/22/05, with respect to the rejection(s) of claim(s) 16-30 under 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Kennedy, Webb and Miller.

Claim Rejections - 35 USC § 102 or § 103

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 16, and 19-34 are rejected under 35 U.S.C. 102(b) as anticipated by Kennedy alone, or in the alternative, under 35 U.S.C. 103(a) as obvious over Kennedy in view of "Pontoon" as described in Scarne's Encyclopedia of Games.

The patent to Kennedy, UK Patent GB 2,106,685 B, discloses a method of playing a gambling device game. The game provides a gambling device, Fig. 1 comprising a coin acceptance 5, computer controls 8 and game play means, Figs. 3A-3C, 4 and 5 interconnected to a power supply, Fig. 4. To play Kennedy's gambling

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device, coins are inserted to activate the gambling device. A base video slot machine 4 is played. If two reels match, the player wins a payout in the normal way, if all three reels match the player wins another payout, page 1, lines 98-104. Thus, it is inherent to provide a first payable listing the two payouts above. If the player achieves one of the two results above, the player is paid according to the payable. If a predetermined combination of symbols is achieved, all three reels match, in the base video slot machine, the player may elect to play a secondary video game and activate the secondary video game, page 1, lines 104-109. The secondary video game may be the game "pontoon", page 1, line 116-130. **Pontoon is a form of blackjack, see "Pontoon" in Scarne's Encyclopedia of Games.** In the "pontoon" game, cards are dealt to a player hand and to a dealer hand. The player wins if the player has a higher point score than the dealer's point score, thus the player is paid according to the comparison of their point scores.

"Pontoon", as described in Scarne's Encyclopedia of Games, also has different payoff amounts for winnings with each different possible point score. Scarne's recites "if a player has five cards and his total is 21 or under, he collects double his bet; with six cards totaling 21 or under, four times his bet; and so on, doubling for each additional card", see page 286, col. 2 under "Bonus Payments". The claimed "different possible point scores" may be broadly interpreted as the number of cards in a player's hand totaling 21 or under. In view of such teaching, it would have been obvious to provide to Kennedy's gambling device, a pontoon/blackjack payable listing different payoff amounts for winning with each different possible point score. This modification would

have provided more winning payoff hands, thus giving the player the perception of having more chances at winning, and thus making Kennedy's game more attractive.

Claim Rejections - 35 USC § 103

5. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy as applied to claim 16 above, and further in view of Webb.

The base video slot machine in Kennedy's gambling device has three reels or displays 4 for displaying three reels. Winning combinations include "two reels match" (pair), and "all three reels match" (three-of-a-kind). The Examiner takes the position that these combinations are broadly poker hand rankings.

The patent to Webb teaches that it is known in the video slot machine art to play a three-card draw poker game on a video slot machine, see Fig. 7. In view of such teaching, it would have been obvious to substitute the three-card draw poker game of Webb for the three-reel slot machine game of Kennedy. This modification would have attracted more poker players to Kennedy's game.

6. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy as applied to claim 32 above, and further in view of Miller.

See the description of Miller in the first Office action mailed 08/25/04. In Miller's game if the player beats the dealer's point total of 20 (player has a point score of 21), the player receives an 11:1 payout, col. 5, lines 21-35. In view of such teaching, it would have been obvious provide to Kennedy's pontoon/blackjack game, a payout of

11:1 to the player if the player has a point score of 21 and the dealer's has a point score is 20. This modification would have provided an additional winning payoff hand to Kennedy's game, thus giving the player the perception of having more chances at winning, and thus making Kennedy's game more attractive.

Claim Rejections - 35 USC § 112

7. Claims 20-23, 26-29 and 33-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 20-23 the recitation "the dealer" lacks antecedent basis. There is no mention of "a dealer" in any of the previous claims 16-19.

8. Claim 20-23, 26-29 and 33-35 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: all steps that must be performed in order to carry out the blackjack game between "activating a subsequent blackjack game" (recited in claims 16, 24 and 30) and receiving payments according to "point scores" (recited in claims 20-23, 26-29 and 33-35). How does a player go from "activating a subsequent blackjack game" to receiving payments according to "point scores"? At present, the claims of the present invention have **NO** steps for carrying out the game of blackjack. The claims **MUST** include steps similar to, e.g. providing a conventional deck of playing cards, dealing two cards to a player, dealing two cards to a dealer, totaling the values of the player cards to obtain a point

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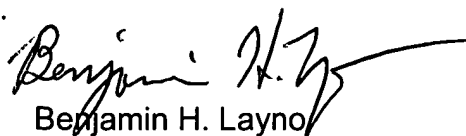
score, the player deciding whether to receive a third card according the player's point score, etc.

9. The recitation "the player is paid a greater amount for winning with a lower point score than with a higher point score", in claims 27 and 33, is vague and indefinite. What is the definition of a "lower point score", and what is the definition of a "higher point score". Higher or lower relative to what? What is a point score being compared to determine whether it is a "lower point score" or a "higher point score".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571)272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin H. Layno
Primary Examiner
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